



## Area Planning Committee (North)

**Date** Thursday 30 November 2023  
**Time** 9.30 am  
**Venue** Council Chamber, County Hall, Durham

---

### Business

#### Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes of the meetings held on 5 October 2023 and 26 October 2023 (Pages 3 - 26)
4. Declarations of Interest (if any)
5. Applications to be determined;
  - a) DM/23/01688/FPA - NCB Buildings, Stella Gill Industrial Estate, Pelton Fell, Chester-le-Street, DH2 2RG  
(Pages 27 - 38)  
Construction of 2.4m high fence and 2 no. gates.
6. Such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration.

**Helen Bradley**  
Head of Legal and Democratic Services

County Hall  
Durham  
22 November 2023

To: **The Members of the Area Planning Committee (North)**

Councillor E Peeke (Chair)  
Councillor W Stelling (Vice-Chair)

Councillors G Binney, J Blakey, L Brown, K Earley, J Griffiths,  
D Haney, P Jopling, B Moist, J Purvis, I Roberts, K Shaw,  
A Sterling, A Watson and S Wilson

**DURHAM COUNTY COUNCIL**

**AREA PLANNING COMMITTEE (NORTH)**

At a Meeting of the **Area Planning Committee (North)** held in the Council Chamber, County Hall, Durham on **Thursday 5 October 2023 at 9.30 am**

**Present:**

**Councillor E Peeke (Chair)**

**Members of the Committee:**

Councillors W Stelling (Vice-Chair), J Atkinson (substitute for J Griffiths), G Binney, J Blakey, K Earley, D Haney, P Jopling, B Moist, J Purvis, I Roberts, K Shaw, A Sterling, A Watson and S Wilson

**1 Apologies for Absence**

Apologies for absence were received from Councillors L Brown and J Griffiths

**2 Substitute Members**

Councillor Atkinson substituted for Councillor Griffiths.

**3 Minutes**

The minutes of the meeting held on 27th July 2022 were confirmed as a correct record and signed by the Chair.

**4 Declarations of Interest**

Councillor Stelling declared an interest in item 5(c) as it was within his electoral division.

**5 Applications to be determined;**

**a DM/22/03724/FPA - Park View Upper School And Sixth Form, Church Chare, Chester-le-Street, DH3 3QA**

The Committee considered a report of the Senior Planning Officer regarding an application for a proposed artificial grass pitch (AGP) with

perimeter fencing, 6 x 15m LED lighting columns, and hard standing areas at Park View Upper School and Sixth Form, Church Chare, Chester le Street (for copy see file of Minutes).

Scott Henderson, Senior Planning Officer provided a detailed presentation of the application which included photographs of the site, site location, aerial photo, primary access routes, site boundaries, impressions of the proposed landscaping, tree planting, LED lighting columns, plus associated works.

The application had received 231 letters of objection and 90 letters of support.

Members of the Committee visited the site previously and were familiar with the location and setting.

Councillor Jopling asked the Senior Planning Officer about the total amount of playing pitches within the county. The Senior Planning Officer responded that while he did not have the total pitches figure within the county it was detailed in the report that the playing pitch strategy outlined the need for 2 pitches in North Durham.

The Chair thanked the Senior Planning Officer and invited Councillor Scurfield to address the Committee.

Councillor Scurfield raised local residents' concerns and highlighted their expertise of the local area.

The geographical location of the letters of support was highlighted with 30% of supporters not residing in the county including none of the supporters situated in the neighbouring estate from the proposed application. Councillor Scurfield expressed that she was not against young people playing sport and local football teams in the area. It had been brought up that a current restriction of using the gate on roman road was implemented from 1990's from the County Council to address highway concerns and was still in place. It was reported that the current restrictions had worked well in reducing highway concerns. It was interpreted that the report was solely beneficial for the applicant. The application would lead to a reduction in the availability of green space. It had been outlined that the nature of usage in artificial pitches was for usage maximisation and therefore the planned operational hours of 4pm – 9:30pm throughout the week and weekend would be fully utilised with natural spill over experienced until 10pm. It was further pointed out that the proposed application would result in an additional level of usage of the site which would result in higher projected congestion, parking, traffic, and other highways safety concerns.

The negative affects to the social and mental wellbeing for the local residents had been highlighted in terms of the aforementioned highways issues including light pollution that had been projected to emanate from the proposed LED light columns. It was further raised that the main car park was situated in a tight geographical footprint which resulted in a very time-consuming process to manoeuvre the car park. The direct result had been proposed that user had used the housing estate for parking due to the car park having excessive congestion. It was questioned that traffic marshals were practically ineffective. It was conceded that no reported accidents had been reported in the vicinity of the school due to highways concerns however incidents had been locally discussed and noted and walls had been damaged by parents doing school runs. Facilities such as the proposed would be better situated away from housing estates.

Finally, Councillor Scurfield agreed with the residents that the current infrastructure was insufficient for the proposal, the local primary school highways safety had been compromised, the increased traffic from the development emanated would lead to a reduction in general air quality. Park View school was a school and not a leisure facility. Therefore, a shortage of classrooms and not playing pitches should be prioritised.

The Chair thanked Councillor Scurfield and asked Councillor T Smith, neighbouring Member to address the Committee

Councillor Smith informed the Committee that following the sad death of Councillor B Bainbridge she had been requested by Holmlands residents to call the application in to Committee and informed the Committee she agreed with local residents why this development should not proceed.

There was no infrastructure for the development, very little car parking and the residential streets did not have the capacity for extra traffic. There were two primary schools in the immediate locality of this proposed development which, if it went ahead, would result in serious road safety issues for the primary school children. Councillor Smith was also concerned about the impact the extra traffic would have on the air quality in the area. Councils were now introducing clean air zones and Councillor Smith asked why should more traffic be allowed into this very small area.

The proposal would create traffic congestion and the air quality would deteriorate which was harmful to both children and residents. Finally, Councillor Smith highlighted that first and foremost Park View School was an educational establishment and not a sporting venue. Park View was already oversubscribed causing children from Chester le Street needing to travel to

Sunderland and Washington which was neither good for the children or the carbon footprint. Planning considerations had identified a shortage of football pitches and Councillor Smith asked whether a shortage of classroom spaces in Chester le Street had been identified. Park View School needed more classrooms, not more football pitches.

Steve Simpson informed the Committee that he was speaking on behalf of residents and that he echoed and wholly agreed with Councillor Scurfield's words. A presentation had been provided illustrating the neighbouring housing estates, highways concerns and previous first-hand implications of congested areas.

It was raised from the report that there were over 200 objections from residents on the estate including the current MP, local Councillor, and previous Councillor and these should not be ignored.

It was noted that the estate accommodated parking associated with two churches, three schools, Chester le Street Cricket Club all of which were situated in the near vicinity. A broader geographical point was raised that the estate was situated between the town centre, Riverside Park and Park View Community Centre and indirectly affected by the associated activities of all three.

The validity and relevance of the applicants traffic survey and its timing was questioned. Government guidance recommended that surveys be conducted in Spring or Autumn as opposed to the July window that the survey had been undertaken. A further point was raised that a two-day streetwise survey which all parameters of the car park had been measured for traffic flow, had been excluded from the report.

Parking congestion was as a direct consequence of Park View Community Centre which had seen parking capacity exceeded. The Streetwise survey which had been undertaken calculated the optimum number of parking spaces on the estate using a measure of 5m and 5.5m length in their calculations. Durham County Council's own minimum standard was a 6m length. Using the 6m standard it was estimated on that Saturday afternoon the estate was occupied with parked cars between 130% and 150% of capacity. It was believed that data provided in the report had broken Government and Durham County Council guidelines. In conclusion it was summarised that highways congestion would be amplified and continuous because of an approved application.

Objections raised included increased disturbance from noise for a greater duration of time. This included pre-existing concerns of shouting from players and spectators, vehicle movements and a general increase in

activity at the site and unique problem directly from this proposal of footballs hitting fences.

A further concern surrounded the potential light pollution from the LED floodlights and their direct impacts to the nearby dwellings. Finally, it was commented, as a result of the application, that a loss of privacy for the nearby dwellings through increased usage of the site would occur.

The Chair thanked Steve Simpson and invited Lewis Pendleton and Jason Palmer to speak in relation to the application.

Lewis Pendleton and Jason Palmer echoed the views of the planning surveys. While the applicant was not an expert in highways nor licensing the concerns of local residents were understood. The applicant had worked with consultants to minimise the highways issues.

The applicant responded to the reference of potentially circumnavigating the long-standing highways restrictions. It was outlined that the site had 3 gates and the affected gate, situated in the middle of the site with the other 2 situated at the north and south ends of the site, as stipulated in the highways restriction would not be used within the parking measures outlined in the application. The other two gates were utilised in this application.

It was reiterated that the application was from Park View Academy and not Chester-le-Street United.

A new artificial pitch was intended to enhance the school curriculum by improved outcomes for the learners, increased availability of provision by activities scheduled all year round.

The last two years had been very difficult for students and the community alike and as people emerged from the pandemic the proposed upgrade to the sports facilities would provide a boost to physical mental and social wellbeing.

The Chair thanked the applicants and asked the Committee for their comments and questions.

Councillor Wilson asked if the current capacity of car parking was 70 parking spaces. The Senior Planning Officer confirmed that the figure was accurate.

Councillor Wilson questioned the capacity of the car parking in a hypothetical scenario where all the current amenities in the Park View Community Centre were to be utilised at the same time and asked whether

the car park had handled this demand previously. Additionally, he asked whether the proposed the 4G pitch would create an additional demand above and beyond the current grass pitch usage and whether the road widths in the highest traffic areas compliant were with regulation.

The Senior Planning Officer confirmed that the road width was compliant with national guidelines. The original application raised highway concerns in relation to traffic and parking and opinions had been sought however an objective report must be assimilated. The occupancy rate of the car park from 5pm onwards had been 70%-80%. Further examples had been raised about several similar scale sites and their adjoining parking capacity via the Trics database. The information assembled from comparable sites had determined that the proposed provision was sufficient for the likely demands of the affected facilities. It was concluded that the demand on the facility as whole would be relatively light compared to other facilities in the area. This fact was illustrated by a comparable facility in the area, Chester Moor FC, only having the capacity of 25 car parking spaces. This was explained to have been suitable for a semi-professional club. On balance it was concluded that the application with statistical findings falling within the recommended highways boundaries should be approved from an objective highways' standpoint.

The Senior Planning Officer suggested that the car parking issue could be alleviated with an implemented booking system to manage peak usage and crossover times.

A response from the applicants described that a booking system was used for the community centre and that the proposed artificial pitch would be added to the system. It was further added that the gym was not bookable for the community and was solely for school usage. Park View Community Centre had struggled since Covid and Park View Academy ran the Community Centre. The Chester le Street football club would be a user of the facility like anyone else. There were 3 or 4 staff present on site in the evening.

Councillor Jopling stated that she understood the frustrations and concerns of local residents on highways and congestion issues and referenced the potential impact of the proposed LED lighting columns which was contrary to Policy 31 of the County Durham Plan.

Councillor Sterling raised the previously mentioned crossover issues and congestion with a reference towards natural behaviour with cars and the desire of parking as close as possible to the destination. A further reference to Policy 31 of the County Durham Plan was made which resulted in the technical specification in terms of light transmission and the illumination of surrounding areas with the concern of the nearest house was situated 25 metres away.



The Senior Planning Officer responded that the projected light levels that reached the facades of the properties as carried out by the environment health team complied with the guidelines as stipulated within the reports and therefore no objections could be raised in the report on an objective standpoint.

Councillor Sterling responded that she understood that planning was held to guidelines and law however considered that the light pollution would have an adverse impact even if below guidelines.

The Senior Planning Officer responded that the light would not beam through windows and would only illuminate the exterior of the dwelling.

Councillor Moist considered that the parking diagram which had been shown was misleading in terms of limited parking. He asked whether the usage of the artificial grass pitch would only be restricted to 11 a side or whether training teams would utilise the facility and would it be utilised for small side junior teams? Attendance by spectators would also increase traffic as secondary usage of the site. Finally, while the shortage of pitches in accordance with the playing pitch strategy had been highlighted, he considered that the two north Durham pitches could be better situated in other areas of north Durham.

Councillor Roberts remarked that the only way an artificial pitch would be financially sustainable would be by increasing the usage of the pitches therefore 8 a side teams could be used three times at the same time for more income than one 11 a side game. Therefore, it would be assumed that usage would be increased above and beyond the current levels and parking demand would increase exponentially. She added that plastic pitches had a 10-year lifespan and procedures must be put in place for its disposal at the end of this time.

Councillor Atkinson reiterated the main issues about parking congestion. Councillor Jopling further raised the parking supply and demand issue. The proposal would not be a like for like replacement and usage would increase. Human nature would increase the parking issues further by cars that were situated as close to the final destination as possible. Councillor Jopling **moved** that the application be refused as it was contrary to Policies 31 and 29 of the County Durham Plan.

Members asked that if the application was rejected on highways grounds whether the Council would be able to defend this on appeal.

The Highways Officer and Legal Officer both advised that although the proposal would have a highways impact, it fell within current regulations

and advised that if the proposed was refused on highways grounds this would not be sustainable on appeal.

Councillor Watson suggested that the introduction of a parking permit system may address some of the local residents' concerns.

Councillor Sterling suggested the application be deferred until a more representative traffic survey could be carried out.

Councillor Earley considered that the Park View Academy had been unfortunate to be victims of their own success. He believed that an approved application would create more conflict with local residents.

The Legal Officer sought clarity from Members on the reasons they were proposing for refusal of the application. Councillor Jopling **moved** that the application be refused on the grounds of its impact on the environment and residential amenity and on the historical setting. The impact on residential amenity in terms of noise and lighting pollution was contrary to Policy 31 of the County Durham Plan and the impact on heritage assets was contrary to Policy 44 of the County Durham Plan, such impact not being outweighed by the public benefit of the application. **Seconded** by Councillor Shaw.

Upon a vote being taken it was:

**Resolved**

That the application be **refused** on the grounds of its impact on the environment and residential amenity and on the historical setting. The impact on residential amenity in terms of noise and lighting pollution was contrary to Policy 31 of the County Durham Plan and the impact on heritage assets was contrary to Policy 44 of the County Durham Plan, such impact not being outweighed by the public benefit of the application.

**b DM/23/01721/FPA - Land North Of Fenton Well Lane, Great Lumley**

The Committee considered a report of the Senior Planning Officer regarding an application for the erection of a single storey dwelling and associated access and landscaping works on land to the north of Fenton Well Lane, Great Lumley (for copy see file of Minutes).

G Spurgeon, Senior Planning Officer provided a detailed presentation of the application which included a site location plan, aerial image, photographs of the site, proposed plans proposed elevations and roof plan and proposed visualisations. Members of the Committee had visited the site and were familiar with the location and setting.

Councillor P Heaviside, local Member, addressed the Committee. The application was supported by the Parish Council which had also supported the previously withdrawn application for the site. The proposed development would dispose of the last remaining brownfield site in the village of Great Lumley. There was no doubt that this had previously been a brownfield site with evidence of the previous development on the site, a former school, still being evident. The site had become a focus for fly tipping and the track to the site had been used for anti-social behaviour including drug taking.

The development site was only 50 metres inside of the greenbelt and was sustainable, being located close to local amenities. There was a shortage of three- bedroomed homes in the area and a recent application for development at Sherburn which was within the greenbelt had been approved.

Councillor Heaviside asked the Committee to consider the application on its merits and to approve the application.

G Dobson, agent for the applicant, addressed the Committee.

Mr Dobson informed the Committee that rather than repeat what had been said as part of the presentation he wished to focus on the key issues in this case as identified in the draft reasons for refusal.

Planning permission was sought for a modern single storey detached bungalow designed to be barrier free and support lifelong living. The building was 'U' shaped in form and had been designed to 'sit low' and integrate within the landscape. It employed a 'living vegetation' green roof and provided for solar and thermal panels to maximise sustainability.

The first proposed reason for refusal drafted by Officers related to the Green Belt status of the site. This was a previously developed site and had been accepted as such by Planning Officers. As home to the former Lumley Boys School, it was not an undeveloped greenfield site.

Durham County Council Planning Officers had recommended that the site not be included in Green Belt in the Draft version of the County Durham Plan. This recommendation was removed at the last hurdle. Durham County Council Officers assessment at the time was *"removal of the site from the greenbelt would not be visually intrusive nor would it impact on the openness"*.

At no point during the Plan preparation process were any objections from the public received to the proposal to remove the site from the Green Belt.

Paragraph 148 of the National Planning Policy Framework provided clear guidance for determining applications for development in the Green Belt. To support development proposals in Greenbelt it was necessary to demonstrate 'very special circumstances'.

Paragraph 148 of the NPPF made it clear that 'very special circumstances' existed when the potential harm to the Green Belt resulting from the proposal, was clearly outweighed by other considerations. The specific circumstances in this instance were unusual and cumulatively could be deemed to constitute 'very special circumstances' when viewed along with other material considerations. These were that Council Officers had previously supported deletion of this site from the Green Belt, the site was brownfield previously developed land and as such represented a more sustainable form of development than development on greenfield land, the site had been recognised by the Council as untidy and a focus for anti-social behaviour and not making a positive contribution to the amenity of the area in its current form, the development would deliver a biodiversity net gain on the site as a result of the landscaping proposals for the site which would enhance biodiversity compared to the current status. In its current form and condition the site made limited contribution to the fundamental aim of Green Belt policy defined at paragraph 137 of the NPPF, which was to prevent urban sprawl by keeping land permanently open. The application site was within 900 metres or 10 minutes' walk of services within the village which comprised a Co-op food store, convenience store, community centre, gym, nursery, primary school, two public houses, and various hot food takeaways, all of which were connected by lit footpaths. In addition, there was a bus stop within 150m of the site which was served by the No.78 and No.71 bus.

It was submitted that this was an instance where site specific considerations mean that the proposed development would not give rise to harm to the Green Belt. Given the case for 'very special circumstances' identified above and that, it was reasonable to argue that the site was located within the village envelope, thus justifying infill development, there was a justified case for supporting the proposal in this Green Belt location.

Finally, regarding the proposed second reason for refusal, it was contested that the application site was not located in open countryside and did not compromise the special qualities of the surrounding Area of Higher Landscape Value. As such Policy 10 and Policy 39 did not apply to the proposal. In response to the previous refusal of permission, a comprehensive landscaping proposal had been prepared and was lodged with the application. This incorporated specific landscaping measures to strengthen the site boundary and integrate the development within the wider landscape.

It was within the gift of the Committee to grant permission for the proposed development. The applicant was of the view there was sufficient justification to do this as outlined. Fundamentally, to grant permission would not conflict with the fundamental aim of Green Belt, there was justification for very special circumstances, the location was sustainable and landscape impact was now successfully mitigated in the current scheme. Mr Gibson requested the Committee to grant permission.

Councillor Blakey informed the Committee she had attended the site visit and found it difficult to explain a former brownfield site which was now in the greenbelt. The foundation and structures of the previous development on the site were still visible. If the application was to be approved Councillor Blakey asked whether a Condition could be placed that the applicant used the existing dressed stone on site for landscaping.

The Senior Planning Officer doubted whether there would be enough material on site to use for building but further details regarding boundary treatments could be Conditioned.

Councillor Blakey understood the need for greenbelt protection, but greenbelt had been moved in the past. Policy 29 of the County Durham Plan related to sustainable design and the proposed development would incorporate solar panels. The development would sit below the level of the surrounding countryside and would have no impact on the landscape. Councillor Blakey **moved** that the application be approved subject to a Condition that the applicant used as much material currently on the site.

The Senior Planning Officer replied that while the use of solar panels and a living vegetation green roof were a benefit, they were not special circumstances to allow development within the greenbelt.

Councillor Earley considered that the application continued to stick on the greenbelt issue, which had been explored with inspectors during the draft stage of the County Durham Plan, with the inspectors concluding that this was greenbelt. Councillor Earley **moved** that the application be refused for the reasons detailed in the report.

Councillor Jopling considered the site to be brownfield, adding that there had previously been a school on the site. The area currently looked like ugly scrubland. Because the site was brownfield with remnants of the previous building still on it she considered this gave the Committee the leeway to approve the application. The proposed building was a low-rise property with a living roof and Councillor Jopling agreed with Councillor Blakey that the application should be approved.

C Cuskin, Senior Lawyer Regulatory and Enforcement informed the Committee that while it was not disputed that the site had previously been developed, very special circumstances were needed to approve the application to justify the harm to the greenbelt.

Councillor Blakey did not consider the development would cause any harm to the greenbelt, adding that more harm through anti-social behaviour was taking place now on the site.

The Senior Lawyer Regulatory and Enforcement replied that under the NPPF inappropriate development in the greenbelt was considered as harm.

Councillor Moist considered that the application complied with Paragraphs 12 and 15 of the NPPF and also complied with Paragraph 174 of the NPPF in that it would enhance the local environment. He considered that any development at this location would enhance the local environment given that the site was currently plagued by issues of anti-social behaviour. If the application was approved it would enhance and protect the greenbelt.

Councillor Watson informed the Committee that this was a brownfield site and the application was supported by the Parish Council. This was the last brownfield site and the development would enhance the area. He considered these were the special circumstances to allow the application to be approved.

The Senior Planning Officer referred to Committee to NPPF 13 which related to the protection of greenbelt land. The aim of greenbelt policy was to prevent urban sprawl by keeping land permanently open, the essential characteristics of greenbelt were their openness and their permanence. This site was detached from the development of Great Lumley and the County Council had existing powers under s215 of the Town and Country Planning Act to deal with the issue of untidy land. Previous applications put forward for this site had cited similar special circumstances and a consistent view had been taken in the past.

The Senior Lawyer Regulatory and Enforcement sought clarity from the Committee on what it considered the very special circumstances to be in this case.

Councillor Watson replied that it was a brownfield site, the proposal would enhance the area, it was the last brownfield site in the village and the development would be of a benefit to the whole village.

The Senior Lawyer Regulatory and Enforcement sought confirmation that the Committee considered that the benefits to the area and improvements

to the site would outweigh the greenbelt protection and development in the countryside.

Councillor Jopling considered that the proposed development would not make any significant difference to the countryside. The development was a low-rise property with a grass roof on what was currently scrubland. The development would tidy the area and bring benefits to those living nearby from the reduction in anti-social behaviour. The development would not make a significant difference to the greenbelt.

The Senior Lawyer Regulatory and Enforcement sought delegated authority from the Committee, should the application be approved, for a suite of Conditions and legal agreement to be delegated to officers in consultation with the Chair.

**Moved** by Councillor Blakey, **Seconded** by Councillor Watson that the application be approved.

Upon a vote being taken it was:

**Resolved:**

That the application be **approved** and that delegated authority be given to officers in consultation with the Chair for a suite of Conditions and legal agreement.

**c DM/23/00446/FPA - The Chelmsford, Front Street, Ebchester, Consett, DH8 0PJ**

The Committee considered a report of the Planning Officer regarding an application for the change of use from commercial (Public House) to a five bedroom residential dwelling (C3) at The Chelmsford, Front Street, Ebchester, Consett (for copy see file of Minutes).

L Dalby, Principal Planning Officer provided a detailed presentation of the application which included a site location plan, site photographs, proposed floor plans and proposed elevations.

Councillor S Robinson, who had registered to speak on the application, informed the Committee he would yield to Councillor W Stelling to speak as local Member. The Senior Lawyer Regulatory and Enforcement sought clarity from Councillor Stelling as to in what capacity he would be addressing the Committee, as local Member or as part of the debate. If Councillor Stelling wished to speak as part of the Committee and had no interest in the application then the appropriate time to speak would be when the application was opened to debate by the Committee. Councillor Stelling asked the applicant whether she wished for him to speak as a Member of the Committee and take part in the vote or speak as a local

Member and take no part in the decision process. The applicant wished for him to do the former.

Anna Philips addressed the Committee on behalf of the applicant in support of the application.

Ms Philips informed the Committee that the applicant was a hard-working woman who ran several businesses that contributed significantly to the local economy and employed dozens of people in the area. One of these was another hospitality business, The Crown and Crossed Swords. This pub and restaurant was thriving and demonstrated that the applicant had sound credentials in this area. The Chelmsford was never viable. The applicant had tried, over a number of years, to turn it into something better, but failed. It simply would not make enough money to justify its' continued existence.

Suggestions had been made around how to improve business. While the planning officer had expertise in planning matters he did not in hospitality. The applicant had decades of experience in hospitality. She had already tried everything within reason to increase business over several years, and all of this was in the pre-covid climate when hospitality was in a much healthier place. Post-pandemic many pubs were struggling, and many had closed their doors for good.

There was no prospect of the applicant re-opening The Chelmsford as a pub. If the proposal was not supported, this would leave the applicant in an impossible position, stuck with an asset that had not sold as a commercial prospect, with no offers from the local community to buy the building, unable to advertise it for sale as anything else, and burdening her financially just to keep it. All the while this historic building remained unused, was deteriorating and becoming an eyesore.

The applicant was being prevented from making efficient choices in respect of disposing of her own property, because of a process where she had no say in the matter.

The planning officer's advice to refuse the application boiled down to two matters, one of viability and one of the pub being viewed as a community asset. The applicant had demonstrated over many years that it was not a viable business. A report produced by Mr Cartmell, an expert in hospitality underlined this with repeated references to the building being a valuable community asset taking no account of the fact that it had not been open to the public for over three and a half years. It had not been any asset to the community at all in this time. The community facility that was referred to did not exist. Ms Philips asked how a decision against the applicant could be considered necessary to guard against the



unnecessary loss of valued and accessible facilities and services. There were no accessible facilities or services. The residents had not asked for it to be included on the list of community assets which suggested they did not consider it as such.

Ms Philips emphasised that The Chelmsford had now been closed as a pub for over three and a half years, and for sale for several years before it closed. Despite all the talk of a community buy out there had been no proposals submitted by the community to do so. The applicant would not be re-opening the business, and she could not be expected to run it at a loss, which would be the reality.

The overwhelming majority of the local community were not against this development. The letter from the chair of Ebchester Village Trust stated residents would rather see the building changed to a dwelling, if the alternative was for it to stand empty.

The CAMRA assessment, which was not required, had not been used consistently in similar applications. The applicant believed this was unfair and disputed the findings of it in every respect. There were numerous other pubs all within easy commutable distance by public or private transport. Ebchester was on a major bus route. The Derwent Walk Inn was only 700 metres from the village, within easy walking distance for most people.

If this development did not go ahead, this building would be condemned to remain vacant. It would degrade, deteriorate, become derelict in time, and be a magnet for crime and anti-social behaviour. This would have the opposite effect of conserving it. It would contribute only negatively to the neighbourhood.

Ms Philips asked the Committee to approve the application.

Councillor J Atkinson raised a question about procedure regarding Councillor Stelling's role on the Committee for this application. Councillor Stelling had initially intended to speak as a local Member and following a discussion with the applicant had decided to speak as part of the debate and exercise his right to vote. Councillor Atkinson considered this to demonstrate pre-determination. The Senior Lawyer Regulatory and Enforcement replied it was for each individual Member whether they wished to declare an interest in any particular matter and asked Councillor Stelling to confirm he was approaching this application with an open mind, would listen to the debate and had not made a final decision. Councillor Stelling replied that the application was within his electoral division but he had no interest at all with the applicant or the property. Councillor Stelling thought he could speak as the local Member and also remain in the meeting because he had no interest in the application otherwise he would

have spoken in support of the applicant, not voted and left the meeting. The Senior Lawyer Regulatory and Enforcement replied that the problem was that the matter was getting into the realms of perception. Councillor Stelling, while confirming he had no interest at all in the application and was approaching the application with an open mind replied that he would leave the meeting.

Councillor Stelling left the meeting and took no part in the debate or decision.

Councillor Earley informed the Committee that while he could see the reasons for the officer recommendation, the pub had never been a going concern and had always struggled. Councillor Earley could not see this changing.

Councillor Jopling understood that the hospitality industry, particularly pubs, had suffered badly post-Covid. An amenity would only be taken away if it was used, and the people who ran the business would know whether it was viable. Councillor Jopling did not consider this to be an amenity.

Councillor Sterling considered that the pub was not a going concern and was not operating as one. The applicant currently ran a successful pub elsewhere and if this building was to become a financial burden to the applicant then this could jeopardise her other businesses.

Councillor Atkinson did not consider this to be the loss of a community asset and considered it had no future as a pub.

Councillor Blakey informed the Committee that while it was sad for another pub to be closed, people were not going out as much post-Covid and the hospitality trade had changed. Although a community buyout would have been welcomed, there had been no appetite for this. Councillor Blakey **moved** that the application be approved.

Councillor Watson **seconded** Councillor Blakey's motion. It was nonsense to consider this as a community asset and the pub had tried repeatedly to operate. There was a pub some 600 metres along the road and The Chelmsford was never going to be a successful business. This was a heritage site and the building was currently pulling the area down.

The Senior Lawyer Regulatory and Enforcement sought delegated authority from the Committee, should the application be approved, for a suite of Conditions and legal agreement to be delegated to officers in consultation with the Chair.

Upon a vote being taken it was:

**Resolved:**

That the application be **approved** and that delegated authority be given to officers in consultation with the Chair for a suite of Conditions and legal agreement.

This page is intentionally left blank

# **DURHAM COUNTY COUNCIL**

## **AREA PLANNING COMMITTEE (NORTH)**

At a Meeting of the **Area Planning Committee (North)** held in the **Council Chamber, County Hall, Durham** on **Thursday 26 October 2023** at **9.30 am**

**Present:**

**Councillor E Peeke (Chair)**

### **Members of the Committee:**

Councillors W Stelling (Vice-Chair), G Binney, J Blakey, L Brown, K Earley, D Haney, P Jopling, I Roberts, K Shaw, A Sterling, A Watson, S Wilson and L Fenwick (substitute for J Purvis)

### **1 Apologies for Absence**

Apologies for absence were received from Councillor Moist and Councillor Purvis

### **2 Substitute Members**

Councillor Fenwick as substitute for Councillor Purvis.

### **3 Minutes**

The Chair informed the Committee that some queries had been raised on the minutes from the meeting held on 5 October. The minutes were to be withdrawn from the agenda and would be brought to the next meeting of the Committee.

### **4 Declarations of Interest**

Councillor Stelling declared an interest in item 5a as it fell within his division.

## **5 Applications to be determined;**

### **a DM/23/02182/FPA Land at the West of Townhead Farm, Iveston Lane, Iveston, DH8 7TD**

The Committee considered a report of the Senior Planning Officer regarding an application for the erection of 2 dwellings with associated landscaping and works at land at the west of Townhead Farm, Iveston Lane, Iveston (for copy see file of Minutes).

Gemma Heron, Senior Planning Officer provided a detailed presentation of the application which included photographs of the site, site location, aerial photograph, primary access routes, site boundaries, elevation plans and proposed visuals.

One letter of objection had been received which cited that the proposed dwellings did not fit the aesthetic of the area and the increased traffic would be dangerous and there was a need for a lower speed limit.

A response from the applicant and agent had been received after the publication of the report however this had not changed the recommendations within the report.

The Chair thanked the Planning Officer and invited agents for the applicant, Craig Ross and Hannah Wafer, to address the committee.

C Ross informed the committee that the application had been granted approval in 2019, which had since lapsed. The purpose of the application was to reapply the previously accepted proposal. The Spatial Planning Officer had raised no objections to the proposal and the Local Conservation Officer had reached the same conclusion. The application had characteristics that were in keeping with the settlement of Iveston whereas the neighbouring premises of the Pavilion restaurant conflicted with the characteristics of village which should not be ignored. An independent visual assessment had been carried out which concluded that the landscape impact would be minimal, and the development would be of a high quality and design. The proposal that had been put forward to the committee was fact based and reliable. Mr Ross asked the committee to approve the application.

Claire Young, applicant, informed the Committee that planning permission had previously been approved on this site. The newly adopted Area of High Landscape Value Policy resulted in the applicant having an independent visual assessment undertaken. The findings of this assessment reported that the landscape impact would be minimal.

In accordance with Policy 39 it conserved the landscape and provided residential development of high quality and design. The company who gave the independent report was Southern Green, a local company based in Gateshead. Their expertise was regularly used by Durham County Council to support their arguments and from this it could be interpreted that their opinions were fact based and reliable. For these reasons, and many others, Ms Young asked the Committee to support approval of the application.

The Chair thanked the agent and applicant for their comments and then opened the debate to the committee.

Councillor Stelling reminded the Committee that Design and Conservation Officers, Highways Officers and Contamination Officers had raised no objection to the proposal with Design and Conservation commenting that the proposed development reflected the previous approval. The proposed development sat comfortably and tastefully in its location. The proposal would make best use of the land while not prejudicing allocated or permitted development nearby. The development of this site would be a logical extension of the village in a form which reflected the surrounding areas. Policy 10 of the County Durham Plan related to development in the open countryside but given the location of the site this Policy was not considered to be of any relevance. Equally, Policy 6 of the County Durham Plan allowed for developments which were within and outside of the built-up area provided that they were well related to the settlement and Councillor Stelling believed this development complied with Policy 6. The site was located within the Conservation Area and officers had confirmed that substantial harm could not be demonstrated as a result of this development. The development was of a high-quality design which had been praised by the County Council's Design Officer. Local companies would benefit during the construction phase of the development. Councillor Stelling believed that the benefits of the development outweighed the insubstantial harm.

Referring to the site being located in an Area of High Landscape Value the site had experienced development over the recent years, currently providing access to an equestrian centre. There were more obvious developments in this location, the equestrian centre and the Cantonese restaurant. As demonstrated through an independent visual assessment this development in accordance with Policy 39 conserved the landscape and provided a residential development of both high quality and design. While the Local Plan had been adopted since the previous approval the design and landscape impact was previously deemed acceptable and did not contravene Policy 6 or Policy 39 of the County Durham Plan. Councillor Stelling could see no reason why this development should not go ahead and **Moved** that the application be approved.

Councillor Blakey agreed with Councillor Stelling and **Seconded** the motion.

Councillor Sterling informed the Committee that she drove past the location regularly and was familiar with it. The buildings proposed were sympathetic and planning permission had been previously approved. Councillor Sterling did not consider the location as an Area of High Landscape Value because within it was the Cantonese restaurant which was not of a high quality design, was near to two other buildings which had been worked on recently and was next to a main road. Councillor Sterling considered that the proposed development fitted within Policy 6 of the County Durham Plan. Councillor Sterling referred to recent approval for a development of 300 homes on three farmers' fields within her electoral division which was considered well related to the settlement on the edge of the village then there should be no reason that this development which was located next to an equestrian centre and opposite a Cantonese restaurant should not be approved.

Councillor Watson considered the proposed development would have minimal impact on the area of High Landscape Value.

Councillor Watson considered the proposed development was a high-quality design and did not contravene Policies 6 and 39 of the County Durham Plan.

Councillor Jopling commented that the site was not in a Neighbourhood Plan area and there had been no objections from local residents. Councillor Jopling commented that she was unable to see how the proposed development had an unacceptable impact or harm to the local area. The surrounding area had been more adversely affected by previous developments which included terraced homes and barns. Councillor Jopling remarked that the development would not change the local countryside and although the report stated that it would she believed that this was only by a technicality and would not be a recognisable change. Councillor Jopling also considered the proposed development was not detached from the existing built-up area of the village and agreed that the application should be approved.

Councillor Wilson sought clarification whether the building materials proposed complied with the Conservation Area guidelines. He considered that the design of the application was not out of keeping with the local area and sought details of the position of the village boundaries.

The Senior Planning Officer responded that the characteristics of the village and the proposed site of the development were considered as two different settlements and the proposal had been deemed outside the settlement of Iveston.



This decision had been obtained as the proposed site provided a natural barrier in terms of a slope which had been distinctly different in profile to the settlement of Iveston therefore the boundary had been classified as where the physical landscape changed in relation to the developments within the settlement.

Councillor Earley considered the phrase less than substantial harm to be misleading as the development would still be harm. Iveston was the only Saxon settlement village in North Durham and this must be taken into consideration. Iveston was the only type of the village in the area based off other characteristics in comparison to other neighbouring settlements. While accepting that the proposed development was well designed it impinged on a Conservation Area and the historic site of Iveson. The location of the Cantonese restaurant needed to be put into context that the building had previously been a pub. Councillor Earley supported the recommendations of the Planning Officer and would be voting against approval of the development.

Councillor Brown informed the Committee that it could not consider the previously approved application as both the NPPF and the Local Plan had changed. The application needed to be considered in isolation. Councillor Brown was uncomfortable that the development was in a Conservation Area and an Area of High Landscape Value and could not see that the benefits of the development in this location would outweigh the harm. The development would have a high visual impact due to its positioning in relation to the adjacent main road.

Councillor Roberts considered the sight of the area of green land to be of high value significance on entry to the village and it was important for this to be retained. As such she would be supporting the officer recommendation for refusal.

Councillor Haney remarked that the proposed application would be prominent and overbearing on the countryside and believed that approval of this application would encourage further encroachment into the countryside and the Area of Higher Landscape Value.

Councillor Shaw said that the area was of High Landscape Value. National Planning Policy Framework section 16 paragraph 202 stated that harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. He believed that the application had failed to achieve this. He also highlighted that Policy 39 of the County Durham Plan stated the need to conserve and benefit the area. All the mentioned policies were linked in the wider conservation of landscapes and settlements in the countryside. Councillor Shaw further remarked that the settlement provided clear boundaries as it was a ringed settlement and that the previous, successful, application had been considered prior to the adoption of the County Durham Plan

C Cuskin, Senior Lawyer Regulatory and Enforcement clarified with the Committee that it had been moved by Councillor Stelling, seconded by Councillor Blakey that the application be approved because the proposed development was well related to the settlement of Iveston, that the harm to the Conservation Area and Area of High Landscape Value was outweighed by the benefits and the development would lead to the provision of high quality housing. The Senior Lawyer Regulatory and Enforcement sought delegated authority from the Committee, should the application be approved, for a suite of Conditions and legal agreement to be delegated to officers in consultation with the Chair.

Upon a vote being taken it was

**Resolved**

That the application be **approved** and that delegated authority be given to officers in consultation with the Chair for a suite of Conditions and legal agreement

# COMMITTEE REPORT

---

## APPLICATION DETAILS

---

<b>APPLICATION NO:</b>	<b>DM/23/01688/FPA</b>
<b>FULL APPLICATION DESCRIPTION:</b>	<b>Construction of 2.4m high fence and 2 no. gates.</b>
<b>NAME OF APPLICANT:</b>	<b>Mr Lee Ellison</b>
<b>ADDRESS:</b>	<b>N C B Buildings, Stella Gill Industrial Estate, Pelton Fell, Chester-le-Street, DH2 2RG</b>
<b>ELECTORAL DIVISION:</b>	<b>Pelton</b>
<b>CASE OFFICER:</b>	<b>Elinor Woodruff Planning Officer 03000 261059 <a href="mailto:elinor.woodruff@durham.gov.uk">elinor.woodruff@durham.gov.uk</a></b>

---

## DESCRIPTION OF THE SITE AND PROPOSALS

---

### The Site

1. The application site is an unoccupied industrial building set within a large curtilage between Chester-le-Street and Pelton. It is bordered by the coast to coast (C2C) route to the north, a residential estate to the south, public right of way Footpath No. 21a to the east, and Stella Gill Industrial Estate to the west. Access is taken to the west via an access track/road.

### The Proposal

2. The application seeks full planning permission for the erection of a 2.4m high fence around the perimeter of the site along with 2no. access gates. It is noted that part of the fence has already been constructed and is presently unauthorised. This application seeks to regularise that situation whilst also seeking planning permission for the completion of works to totally enclose the site with a 2.4 metre high security fence. It is noted that the applicant has ceased all works relating to completing the installation of the fence pending determination of this application.
3. The application is reported to planning committee at the request of Councillor Tracie Smith as it is considered that the proposal generates significant issues for consideration by the committee regarding traffic generation and access.

---

## PLANNING HISTORY

---

4. No relevant planning history.

---

# PLANNING POLICY

---

## NATIONAL POLICY

5. A revised National Planning Policy Framework (NPPF) was published in July 2021 (with updates since). The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
6. In accordance with Paragraph 219 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
7. *NPPF Part 2 - Achieving Sustainable Development.* The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
8. *NPPF Part 4 - Decision-making.* Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
9. *NPPF Part 6 Building a Strong, Competitive Economy* - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
10. *NPPF Part 8 Promoting Healthy and Safe Communities* - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
11. *NPPF Part 9 – Promoting sustainable transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.

12. *NPPF Part 11 Making Effective Use of Land* - Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
13. *NPPF Part 12 – Achieving well-designed places* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
14. *NPPF Part 15 - Conserving and Enhancing the Natural Environment* - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

<https://www.gov.uk/guidance/national-planning-policy-framework>

15. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; air quality; design process and tools; determining a planning application; flood risk; healthy and safe communities; land stability; land affected by contamination; housing and economic development needs assessments; housing and economic land availability assessment; natural environment; neighbourhood planning; noise; open space, sports and recreation facilities, public rights of way and local green space; planning obligations; travel plans, transport assessments and statements; use of planning conditions; Tree Preservation Orders and trees in conservation areas and; water supply, wastewater and water quality.

<https://www.gov.uk/government/collections/planning-practice-guidance>

## **LOCAL PLAN POLICY:**

### The County Durham Plan

16. *Policy 10 - Development in the Countryside.* Development in the countryside will not be permitted unless allowed for by specific policies in the Plan, relevant policies within an adopted neighbourhood plan relating to the application site or where the proposal relates to one or more of the following exceptions; economic development, infrastructure development and development of existing buildings. It also sets out the general design principles for different types of development in the countryside.
17. *Policy 21 - Delivering Sustainable Transport.* Requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to the Parking and Accessibility Supplementary Planning Document and Strategic Cycling and Walking Deliver Plan.

18. *Policy 26 – Green Infrastructure.* Development will be expected to maintain and protect, and where appropriate improve, the county's green infrastructure network. This will in turn help to protect and enhance the county's natural capital and ecosystem services. Development proposals should incorporate appropriate Green Infrastructure (GI) that is integrated into the wider network, which maintains and improves biodiversity, landscape character, increases opportunities for healthy living and contributes to healthy ecosystems and climate change objectives.
19. *Policy 29 – Sustainable Design.* Requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out detailed criteria which sets out that where relevant development is required to meet including; making a positive contribution to an areas character and identity; provide adaptable buildings; minimise greenhouse gas emissions and use of non renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; providing suitable landscape proposals; provide convenient access for all users; adhere to the Nationally Described Space Standards.
20. *Policy 31 - Amenity and Pollution.* Sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
21. The current County Durham Parking and Accessibility Standards Supplementary Planning Document 2023 sets out the Council's approach to vehicle and cycle parking provision on new development and extensions to existing development which includes both residential and non-residential.

<https://www.durham.gov.uk/media/26916/County-Durham-Parking-and-Accessibility-Standards-2019/pdf/CountyDurhamParkingAndAccessibilityStandards2019.pdf?m=636839346853430000>

---

## **CONSULTATION AND PUBLICITY RESPONSES**

---

### **STATUTORY RESPONSES:**

22. *Pelton Parish Council* – Objects to the application on the basis that the fence blocks access to a lane that connects to the PROW Footpath No. 21a to the Industrial Estate to the west and that has been well used by the public for many years. In addition, they also raise objection that no consultation was had with residents prior to some of the work taking place.
23. *Highway Authority* – Raises no objection as there are no concerns over road safety.

### **INTERNAL CONSULTEE RESPONSES:**

24. *Public Rights of Way Officer* – Offers no objection to the application noting that the public right of way to the east of the site would remain unaffected. In addition, they confirm that the lane to the north of the site is not adopted as a public right of way, but nevertheless advises that an application to have the lane adopted as a public right of way has been submitted.

## **PUBLIC RESPONSES:**

25. The application has been advertised by way of a site notice, press notice and individual notification letters to neighbouring residents.
26. One letter of objection has been received from the Rt Hon Kevan Jones MP raising concerns that the fence blocks access to a lane that has been well used by the public over the years.
27. Councillor Smith has provided comments from local residents who are glad that the building is being made secure. However, there are concerns regarding access to the lane to the north which is frequently used for by residents being blocked off. She notes that as a consequence, residents have indicated intention to make application to establish this route as a PROW to protect its future use. With the above in mind, Councillor Smith has called in the application to be determined at Committee.

*The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at:*

*<https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=RVZU6XGDKMZ00>*

## **APPLICANTS STATEMENT:**

28. We are Storage North East Ltd, a new business established by four north east men who want to build a business and help enhance and develop a site that has fallen into a state of disrepair. We have all grown up in the local Chester le street area and care a great deal about its future. This is a first-time project for us, we are not slick property developers or a large corporate concern. We are all funding this project personally and have re-mortgaged our homes to raise the capital.
29. We have proceeded with passion and a sense of enterprise, but we recognise we have not explained our plans to the local community adequately and seek to do so in this statement.
30. The former fertilizer works has been derelict for many years. It has been a site that has attracted anti-social behaviour including underage alcohol abuse, drug use, malicious damaging, squatting, fires and even a pornography video shoot.
31. Since taking ownership we have had many of the mentioned incidents and have also had to deal with theft and damage of our machines and equipment, therefore we had to act quickly to secure the site and prevent this behaviour.
32. We erected a palisade fence around the perimeter of the land which was essential to safely secure the site, as fly tipping and damage to the building were undoing the clean-up works, we were undertaking.
33. Due to our inexperience, we were misinformed on the rules of permitted development for the fence height we have installed, we believed that 2.4 metres or below did not require planning permission and fell under permitted development.
34. We have now been made aware from our planning consultants that this is incorrect and it is actually 2 metres or below which is why we are now applying for permission retrospectively. The 2.4 metre high fence will provide the security necessary to allow the economic re-use of the existing building, which is supported by Policy 10 of the County Durham Plan.

35. In the medium to long term, we are confident that, once our plans are fully submitted, approved and completed, the site will once again be making a valuable contribution to the local economy, create job opportunities and employment for local residents, and otherwise derelict building will either be restored or rebuilt on the existing footprint. The light industrial and storage units that could emerge will be preferable to the dereliction, antisocial behaviour and eyesore of the existing site.
36. We hope Durham Council will support the positive ideas we have for the site and that, in due course, we can convince local people that our plans will have a low impact on their lives and be of benefit to the build environment on a pocket of land that needs serious remediation.

---

## **PLANNING CONSIDERATIONS AND ASSESSMENT**

---

37. As identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004 the key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise.
38. In assessing the proposals against the requirements of the relevant planning guidance and development plan policies and having regard to all material planning considerations it is considered that the main planning issues in this instance relate to the principle of development, impact on residential amenity, impact on the character and appearance of the area, impact on highway safety and access, and the impact on PROW.
39. The County Durham Plan (CDP) was adopted in October 2020 and as such represents the up-to-date local plan for the area which is the starting point for the determination of this planning application. Consequently, the application is to be determined in accordance with relevant policies set out within the CDP. Paragraph 11(d) of the NPPF is not engaged.

### The Principle of the Development

40. The proposal relates to a former industrial building located to the north of the settlements of Chester-le-Street and Pelton Fell, and as such is considered to be within the open countryside for planning purposes. 390m to the west of the site is the Stella Gill Industrial Estate which hosts a variety of industrial uses and provides access to the application site via a long track to the northwest. Planning permission is sought for the retention of a 2.4 metre high steel security fence and also seeks permission for the completion of associated works to extend this around the site perimeter. 2 No. access gates are also proposed.
41. As mentioned above, the application site is located outside of a built-up area or settlement and so is within the open countryside. Policy 10 (Development in the Countryside) of the County Durham Plan states that development will not be permitted unless allowed for by specific policies in the Plan or Neighbourhood Plan or unless it relates to exceptions for development necessary to support economic development, infrastructure development or development of existing buildings. The policy further sets out 9 General Design Principles for all development in the Countryside.
42. Provision for economic development includes: agricultural or rural land based enterprise; undertaking of non-commercial agricultural activity adjacent to applicant's residential curtilage. All development to be of design and scale suitable for intended use and well related to existing development.



43. Provision for development of existing buildings includes: change of use of existing building, intensification of existing use through subdivision; replacement of existing dwelling; or householder related development.
44. The planning application is supported by additional information which advises that the site was previously used for the manufacture of fertiliser, although neither the site or the building are presently in use in this regard and are understood to have been vacant for some time. The proposed fence is therefore required to improve site security; and reduce instances of anti-social behaviour and unauthorised trespass.
45. In light of the above, the applicant has submitted evidence which seeks to demonstrate that the site is subject to considerable antisocial behaviour, damage and vandalism, occurring as a direct result of unauthorised trespass and due to the site being fundamentally unsecure. This amounted to the results of a Freedom of Information Request made by the applicant to Durham Police which confirms that since 2018 there have been 2 incidents of Burglary, one of Antisocial Behaviour (Nuisance) and one of Public Fear, Alarm or Distress. The applicant asserts that instances of antisocial behaviour are more regular given that not all events are recorded or reported to the Police. With this in mind, they consider the impact that antisocial behaviour and damage presently has on the site to be considerable.
46. The site was last used for industrial purposes falling within Class B of the Town and Country Planning (Use Classes) Order and despite the fact the site is currently vacant, this remains the lawful use in planning terms. As such, the fence would secure the site and prevent unauthorised access and associated impacts from antisocial behaviour and damage. Whilst the volume of evidence provided in support of the application which seeks to demonstrate current issues in this regard is arguably limited, it nevertheless remains that security fencing of the type proposed is typically required to deliver appropriate security at industrial/commercial sites, particularly where natural surveillance is limited, as is the case in this instance.
47. In light of the above, it is considered that the retention of the fence and the proposed completion of the works is acceptable in principle in accordance with policy 10 of the County Durham Plan subject to proper assessment of all other material considerations detailed below.

#### Impact on Public Rights of Way

48. Policy 26 (Green Infrastructure) of the County Durham Plan states that development will be expected to maintain and protect, and where appropriate improve, the county's green infrastructure network; to help to protect and enhance the county's natural capital and ecosystem services. In addition, it states that development proposals should incorporate appropriate Green Infrastructure (GI) that is integrated into the wider network, which maintains and improves biodiversity, landscape character, increases opportunities for healthy living and contributes to healthy ecosystems and climate change objectives.
49. Policy 26 specifically takes into account Public Rights of Way stating that development will be expected to maintain or improve the permeability of the built environment and access to the countryside for pedestrians, cyclists and horse riders. In addition, proposals that would result in the loss of, or deterioration in the quality of, existing Public Rights of Way (PROWs) will not be permitted unless equivalent alternative provision of a suitable standard is made. Where diversions are required, new routes should be direct, convenient and attractive, and must not have a detrimental impact on environmental or heritage assets.

50. PROW Footpath No.21a is positioned to the east of the site in a north south axis, immediately to its eastern boundary and the position of the proposed fence. It is noted that despite being adjacent to the PROW the fence would not restrict its use and the Council's PROW Officer raises no objection to the application in this regard.
51. The main means of access to the site is via a track from Stella Gill Industrial Estate to the west. It is understood that this track also affords access to Footpath No. 21a from Stella Gill Industrial Estate although it is noted that there is no recorded public highway status. The track is on Council owned land up to the point where the fencing has been erected, and public access between this point and footpath no. 21a has been subsequently prevented. It is noted that objections have been received regarding the fact that this access has been restricted by the erection of the fence.
52. Regarding this track, public rights may be accrued through long usage, often referred to as presumed dedication. This allows for a public right of way to be established where a defined way has been enjoyed by the public as of right and without interruption for a full period of 20 years unless there is sufficient evidence that there was no intention during that period by the landowner to dedicate. An application along with evidence is required to support the contention that a public right of way already exists. In most cases this is evidence provided by the public of long usage and can ultimately lead to a dispute over a public right of way.
53. In this instance the Council's PROW Section has confirmed receipt of an application which seeks to demonstrate presumed dedication along this route. However, it is noted that the test of whether or not a dedication has occurred is set out within Section 31 of the Highways Act 1980 and as such falls outside of the scope of planning control. It is therefore the case that the track has no formal designation in this regard and the application should be assessed on this basis. Should presumed dedication be subsequently established, it is noted that the site owner would have the ability to apply to divert or permanently stop-up the route, although again this is a separate process falling outside of any legislative control through the planning system.
54. Noting the above, it is considered that the proposal would not have any adverse impact upon Public Footpath No.21a and as such the development would maintain the permeability of the built environment and access to the countryside for pedestrians, cyclists and horse riders and would not result in the loss of, or deterioration in the quality of, existing Public Rights of Way (PROWs) in accordance with policy 26 of the County Durham Plan.

#### Impact on Highway Safety

55. Policy 21 of the County Durham Plan seeks to ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to Parking and Accessibility Supplementary Planning Document.
56. The application does not propose any alteration to the existing use and as such there would be no fundamental change to existing traffic generation. Consequently, the Highway Authority raises no objections to the application confirming that the proposal raises no concerns over highway/pedestrian safety.
57. As such, it is considered that the proposed fence and gates would accord with Policy 21 of the County Durham Plan and Part 9 of the NPPF.

## Impact on Character and Appearance of Area

58. Policy 29 (Sustainable Design) requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals.
59. The site is bordered by areas of woodland to the south, west and east which conceal the site from residential areas to the south and east. There are also no proposals to remove any trees from these areas. The fence would also sit alongside public right of way footpath no.21a to the west of the site and therefore be visible to the public, however it is not considered that this type of fencing would look out of place when considered in relation to the past use of the site as a fertilisation works.
60. As such, whilst there would be some harm to the visual amenity of the area to the west and the setting of the public right of way this would be negligible, given the industrial nature and appearance of the site.

## Impact on Residential Amenity

61. Policy 31 of the CDP relates to amenity and pollution and outlines that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment. It continues to outline that proposals which will have an unacceptable impact such as through overlooking, visual intrusion, visual dominance or loss of light, noise or privacy will not be permitted unless satisfactory mitigation measures can be demonstrated.
62. Given the nature of the proposal and relatively isolated location, with the closest residential properties being approximately 75m to the south, it is not considered that there would be an impact upon the amenity or privacy of other persons or properties. However, as the area is popular in terms of recreational use by local residents, it is recommended a condition be included to control the hours construction works can take place to protect the amenity of the natural environment in accordance with Policy 31 of the County Durham Plan.

## Public Sector Equality Duty

63. Section 149 of the Equality Act 2010 requires public authorities when exercising their functions to have due regard to the need to i) the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct, ii) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share that characteristic.
64. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

---

## **CONCLUSION**

---

65. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate

otherwise. The development plan in this case relates to the County Durham Plan. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with an up-to-date development plan without delay (paragraph 11 c).

66. In summary, it is considered that the principle of development is acceptable in planning terms and would accord with the aims of Policy 10 of the CDP subject to appropriate planning conditions listed below.

67. When assessed against other policies of the County Durham Plan relevant to the application, it is considered that the construction of a 2.4m fence and 2no. gates in this location would not significantly impact upon highway safety, the character and appearance of the area or PROW no.21a Chester-Le-Street in accordance with policies 10, 21, 26, 29 and 31 of the County Durham Plan or parts 9, 12 and 15 of the NPPF.

68. Whilst the objections raised by the Pelton Parish Council, Cllr Smith and Rt Hon Kevan Jones MP are noted, for the reasons discussed within this report they are not considered sufficient to sustain refusal of the application and considering the above, the application is reported to the Committee with a recommendation to approve the application, subject to conditions.

---

## **RECOMMENDATION**

---

That the application be **APPROVED** subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be carried out in strict accordance with the approved plans listed in Part 3 - Approved Plans.

Plan	Drawing No.	Date Received
Site Location Plan	NB23_12/01	09.06.2023
PROPOSED SITE PLAN	NB23_12/03	09.06.2023
TYPICAL FENCE ELEVATION	NB23_12/04	09.06.2023

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy(ies) 10, 21, 26, 29, and 31 of the County Durham Plan and Parts 2, 4, 9, 12 and 15 of the NPPF. Notwithstanding the details shown on the submitted application, the external building materials to be used shall match the existing building.

3. In undertaking the development that is hereby approved:

No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of 0730 to 1800 on Monday to Friday and 0730 to 1400 on Saturday.

No internal works audible outside the site boundary shall take place on the site other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1700 on Saturday.

No construction works or works of demolition whatsoever, including deliveries, external running of plant and equipment, internal works whether audible or not outside the site boundary, shall take place on Sundays, Public or Bank Holidays.

For the purposes of this condition, construction works are defined as: The carrying out of any building, civil engineering or engineering construction work involving the use of plant and machinery including hand tools.

Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

---

## **STATEMENT OF PROACTIVE ENGAGEMENT**

---

In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF.

---

## **BACKGROUND PAPERS**

---

- Submitted application form, plans supporting documents.
- The National Planning Policy Framework (2021)
- National Planning Practice Guidance notes.
- County Durham Plan 2020
- Statutory, internal and public consultation responses
- County Durham Parking and Accessibility Standards 2023



Copyright and database right 2023.  
Survey LA 100049055  
© 2023